

MUSA - S<sup>2</sup> H. on Public Affs? -  
Com. of Counsel

F

I will not try to review in detail the work of the Committee of Counsel over the last two years, but I am pleased to say as I hand over the Chairmanship that the Committee worked effectively and cooperatively and to a large extent, successfully, on a wide range of matters of serious import to the industry.

The Committee spent a good part of its time during the past two years considering how the industry should react or respond to demands made on it by government health authorities. Early in 1979, HEW issued its strongest report on smoking and health since 1964 and Joe Califano followed up by demanding that the industry mount a special advertising campaign to warn children and young women against smoking. Now, at the end of 1980, we are confronted with a demand from the Surgeon General to disclose all <sup>add. 4/1/85</sup> materials used in the manufacture of cigarettes and to cooperate with him in setting up procedures similar to those used by the FDA to clear these materials for use. In effect, the Surgeon General is trying to set himself up as the FDA for the tobacco industry.

1005114573

Over the past few years, we have also seen the rise of an unwelcome trend for other industries to attempt to involve the tobacco industry in their problems. After considerable effort, we <sup>have apparently reached</sup> ~~seem to be on~~ a cooperative foothold with the upholstery manufacturers. The cotton textile people seem to have been persuaded that a tax on cigarettes was not the best approach to their byssinosis problem. The asbestos industry remains a hostile force to be reckoned with in the courts and perhaps in Congress as does the chemical industry as represented by the American Industrial Health Foundation.

The Committee has also been concerned with problems in the important area of federal cigarette taxes. While it seems that we have for the present beaten back the attempt to accelerate payments of the federal excise tax, we expect to continue to be confronted with measures calling for an increased federal tax and/or <sup>of 20%</sup> an uniform tax. Also, though a federal contraband cigarette law has been enacted, pressures for

1005114574

more stringent measures to curb contraband traffic and tax stamp counterfeiting are likely to continue to build at the federal, state and local levels.

Another long-term problem of concern to the community<sup>?</sup> is the self-extinguishing cigarette. The next session of Congress is likely to see a renewed interest in<sup>?</sup> self-extinguishing cigarette bills with a larger number of supporters than in the past. The Committee has monitored the work at the Bureau of Standards and set up a project at an independant laboratory to attempt to generate some technical information for the benefit of the industry.

Our long-time adversary, Mr. Banzhaf, and his organization, ASH, have been frustrated in their attempts to force the FDA to classify cigarettes as drugs or devices. This battle is not over, but the prospects seem good that we will prevail. ASH also seems to have suffered a set-back in its effort to make smoking more difficult on airplanes with the CAB recently opening the possibility of deregulation in respect to smoking.

1005114575

We also seem to have kept the Federal Trade Commission at bay. So far, they have been unable to conclude their civil penalty case against the companies based on the health warning which has been pending now for nearly five years. In the case of the FTC's investigative subpoena, there is no indication of a follow-up by the agency after our initial round of document production which resulted in their leak of the Roper Report. The enactment of the FTC Improvements Act may pose some problems for the agency in any future action under the subpoena. In another area, the FTC has finally adopted a procedure for carbon monoxide measurement, but the industry has built a record which could make the FTC's publication of results under this method vulnerable to attack.

In the field of science, our Committee has been involved in matters ranging from the phasing out of the Harvard Project and the installation of Dr. Huber as Director of the University of Kentucky program, to attempts to obtain the

1005114576

Through Covington & Burling and Shook, Hardy we have been providing assistance to defense counsel in a variety of legal proceedings such as suits by employees to force employers to prohibit smoking in work areas, and actions to set aside regulations adopted by agencies like the Public Health Council in New Jersey.

An important part of the work of our Committee, which I hope will continue, is the attempt to develop or influence the development of a Model Product Liability Law. In view of the trend of court decisions in states like California, this industry, as well as many others, stands in serious jeopardy unless we can find some means of limiting the exposure of manufacturers in product liability suits. I have appointed a sub-committee of the Committee of Counsel to work on this project and I hope that <sup>its</sup> ~~their~~ efforts will be successful.

1005114577

I want to express my thanks to the other members of the Committee, to Horace and other members of the Institute staff who have worked with the Committee and to Stan Temko and Bill Shinn and his associates who have provided invaluable help.

I extend my best wishes to my successor, Max Crohn, and

(Presentation to Stan Temko.)

would  
like  
to  
take  
this  
opportunity  
to  
tell  
him  
his  
company  
is  
running  
an  
illegal  
trade sweepstakes.

1005114578